

**ASSEMBLY BILL**

**No. 114**

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**Introduced by Assembly Member Carter**

January 13, 2009

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An act to add Section 237 to the Welfare and Institutions Code, relating to juveniles.

LEGISLATIVE COUNSEL'S DIGEST

AB 114, as introduced, Carter. Juvenile court law: purpose.

Existing law sets forth the purpose of juvenile court law, and provides that a minor under the jurisdiction of the juvenile court who is in need of protective services shall receive care, treatment, and guidance consistent with his or her best interest and the best interest of the public. Existing law provides that a minor under the jurisdiction of the juvenile court as a consequence of delinquent conduct shall, in conformity with the interests of public safety and protection, receive care, treatment, and guidance that is consistent with his or her best interest, that holds the minor accountable for his or her behavior, and that is appropriate for his or her circumstances.

This bill would authorize a county to adopt a restorative justice program to address the needs of minors, victims, and the community. The bill would require the restorative justice program to be implemented through a restorative justice protocol developed by the juvenile court in conjunction with the prosecutor, public defender, and other interested groups. The bill would prohibit the use of General Fund moneys to fund the program. The bill would authorize each county to establish the program only after that county has obtained funds for these purposes, as specified. The bill would include related findings and declarations.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature hereby finds and declares all of  
2     the following:  
3     (a) It is the intent of the Legislature that principles of restorative  
4     justice be incorporated into juvenile justice proceedings, consistent  
5     with the underlying rehabilitative purpose of the Juvenile Court  
6     Law (Chapter 2 (commencing with Section 200) of Part 1 of  
7     Division 2 of the Welfare and Institutions Code). Restorative justice  
8     principles recognize the following needs:  
9     (1) Community protection from delinquent conduct through a  
10    continuum of appropriate responses that protects citizens and  
11    victims.  
12    (2) Accountability of the minor through restoration of the losses  
13    experienced by the victim and the community.  
14    (3) Competency development of the minor through the provision  
15    of treatment, education, and skill building needed for success in  
16    the community.  
17    (b) Crime results in injury to the victim, the community, and  
18    the offender. Whenever appropriate, the juvenile justice system  
19    should seek to repair those injuries, taking into account the age,  
20    mental capacity, and developmental maturity of the minor, the  
21    nature of the offense, and the resources available to the minor to  
22    accomplish the goals of Section 237 of the Welfare and Institutions  
23    Code, enacted by Section 2 of this act. Victims and communities  
24    should be actively involved in helping to develop programs and  
25    services, and in ensuring accountability through helping individual  
26    minors to understand the impact of their actions. These activities  
27    shall be pursued in a manner consistent with the minor's right to  
28    due process and the right of victims and minors under Section  
29    676.5 of the Welfare and Institutions Code.  
30    (c) Nothing in this act changes the fundamental intention of the  
31    Juvenile Court Law that individualized care, treatment, and  
32    guidance be provided to each minor coming to the attention of the  
33    juvenile court for alleged delinquency.  
34    SEC. 2. Section 237 is added to the Welfare and Institutions  
35    Code, to read:

1 237. (a) Consistent with the rehabilitative purpose of this  
2 chapter, a county may adopt a restorative justice program to address  
3 the needs of minors, victims, and the community.

4 (b) The restorative justice program shall be implemented through  
5 a restorative justice protocol developed by the juvenile court in  
6 conjunction with the prosecutor, public defender, probation  
7 department, representatives from victims' groups, law enforcement,  
8 community organizations and service providers, restorative justice  
9 groups, and clinicians with expertise in adolescent development.

10 The protocol shall address all of the following:

11 (1) The formation of a restorative justice council.

12 (2) The process to be employed in any case coming before the  
13 council.

14 (3) The rights of minors.

15 (4) Confidentiality issues.

16 (5) Timeliness for case processing.

17 (6) The scope of services of, and orders that may be imposed  
18 by, the restorative justice council.

19 (7) The roles of the court, prosecutor, and defense counsel in  
20 relation to the council.

21 (8) Qualifications and the selection process for restorative justice  
22 council members.

23 (9) The process for evaluating compliance with the program.

24 (10) The process for handling any failure to adhere to the  
25 program directed by the restorative justice council.

26 (c) The program in each case shall seek to repair the harm to  
27 the victim, the minor, and the community caused by the behavior  
28 bringing the minor before the juvenile court. The program  
29 requirements shall be tailored to the age, mental capacity, and  
30 developmental maturity of the minor, the nature of the offense,  
31 and the resources available to the minor to accomplish the goals  
32 of this section.

33 (d) Minors may be referred to the restorative justice program  
34 as part of the court's order for informal supervision pursuant to  
35 Section 654.2, the court's order for nonwardship probation under  
36 subdivision (a) of Section 725, the court's dispositional order under  
37 Section 727, or the court's order for deferred entry of judgment  
38 under Section 790.

39 (e) If the court orders the care, custody, and control of the minor  
40 to be under the supervision of the probation officer for foster care

1 placement pursuant to subdivision (a) of Section 727, the minor  
2 may be referred to the restorative justice program only as follows:

3 (1) To the extent that participation in the program is consistent  
4 with both the minor's case plan developed pursuant to Section  
5 706.5 and any provision of reunification services to the minor and  
6 his or her family pursuant to Section 727.2.

7 (2) To the extent that participation in the program does not result  
8 in the loss of federal financial participation for the placement of  
9 the minor.

10 (f) No General Fund moneys shall be used to fund a restorative  
11 justice program established pursuant to this section. A county that  
12 establishes a restorative justice program shall apply to other  
13 appropriate public and private entities for funding to cover the  
14 costs of the program. A county shall establish the program only  
15 after the county has obtained funds for these purposes.